

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

AMERICAN ASSOCIATION OF
COSMETOLOGY SCHOOLS *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
EDUCATION, *et al.*,

Defendants.

No. 4:23-cv-01267-O

DECLARATION OF JAMES BERGERON

I, James Bergeron, declare under penalty of perjury and pursuant to 28 U.S.C. § 1746, that the following is true and accurate to the best of my knowledge, information, and belief:

1. I am employed by the U.S. Department of Education (“Department”) as Acting Under Secretary. My current duties include the coordination of major policies, programs, and activities related to the Office of Federal Student Aid (“FSA”). This includes, but is not limited to, providing executive oversight of FSA operations.

2. Based on this role, I am familiar with the Department’s current efforts to implement the Financial Value Transparency and Gainful Employment Final Regulations, 88 Fed. Reg. 70004 (Oct. 10, 2023) (“Final Rules”), at issue in this case. I make the statements below based on my personal knowledge and information I obtained in the course of my official duties.

3. On January 17, 2025, the Department issued Electronic Announcement (“EA”) GE-25-01, extending the deadline for schools to provide certain data required under the Final Rules to February 18, 2025.¹ The EA suggested that the Department anticipated completing the initial year’s metric calculations under the Final Rules and making them available to students sometime “this spring.” However, since the date the EA was issued, a new Administration has taken office. Incoming personnel have not yet been able to sufficiently familiarize themselves with the Final Rules, the Department’s related implementation efforts, and the issues raised in this case. Meanwhile, schools have raised various concerns regarding the upcoming reporting deadline and have requested an extension until at least July 2025; the new Administration is still evaluating this request.² Additionally, during the previous administration, a number of technical and operational complexities arose, which have yet to be resolved. FSA currently estimates that these challenges will make it impossible to issue the metrics under the Final Rules before early fall.

4. In light of the need for incoming Department officials to review and consider the Department’s current position on issues relevant to the Final Rules, the Department has requested a 90-day stay of this case. During this period, the Department will not issue individually or post publicly any results of the metric calculations contemplated by the Final Rules, nor will the Department initiate any measures against schools based on the regulations issued under the “Financial Responsibility, Administrative Capability, Certification Procedures, Ability To Benefit (ATB)” Final Rule,³ including subjecting

¹ Electronic Announcement GE-25-01, *available at* <https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2025-01-17/reopening-fvt-and-ge-debt-reporting-process-until-mid-february>.

² *See, e.g.,* American Council of Education Letter, January 29, 2025, *available at* <https://www.nasfaa.org/uploads/documents/Letter-ED-ACE-FVT-GE-Reporting-Deadline-012825.pdf>.

schools to financial responsibility requirements under 34 C.F.R. § 668.171(c)(2)(iii) or the administrative capability trigger under 34 C.F.R. § 668.16(t). Additionally, the standardized process to comply with 34 C.F.R. § 668.408(b)(2) and referenced in the January 17, 2025 EA will not be instituted during this period.

Executed this 7th day of February 2025.



JAMES BERGERON

³ 88 Fed. Reg. 74568 (October 31, 2023).